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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/738,591	12/15/2000	Jim Otter	60,246-116	1229

26096 7590 11/21/2005
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EXAMINER

PARKER, FREDERICK JOHN

ART UNIT	PAPER NUMBER
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1762

DATE MAILED: 11/21/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

**Advisory Action
Before the Filing of an Appeal Brief**

Application No.

09/738,591

Applicant(s)

OTTER, JIM

Examiner

Frederick J. Parker

Art Unit

1762

--The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

THE REPLY FILED 02 January 2005 FAILS TO PLACE THIS APPLICATION IN CONDITION FOR ALLOWANCE.

1. ☐ The reply was filed after a final rejection, but prior to or on the same day as filing a Notice of Appeal. To avoid abandonment of this application, applicant must timely file one of the following replies: (1) an amendment, affidavit, or other evidence, which places the application in condition for allowance; (2) a Notice of Appeal (with appeal fee) in compliance with 37 CFR 41.31; or (3) a Request for Continued Examination (RCE) in compliance with 37 CFR 1.114. The reply must be filed within one of the following time periods:

- a) ☐ The period for reply expires _____ months from the mailing date of the final rejection.
b) ☒ The period for reply expires on: (1) the mailing date of this Advisory Action, or (2) the date set forth in the final rejection, whichever is later. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of the final rejection.

Examiner Note: If box 1 is checked, check either box (a) or (b). ONLY CHECK BOX (b) WHEN THE FIRST REPLY WAS FILED WITHIN TWO MONTHS OF THE FINAL REJECTION. See MPEP 706.07(f).

Extensions of time may be obtained under 37 CFR 1.136(a). The date on which the petition under 37 CFR 1.136(a) and the appropriate extension fee have been filed is the date for purposes of determining the period of extension and the corresponding amount of the fee. The appropriate extension fee under 37 CFR 1.17(a) is calculated from: (1) the expiration date of the shortened statutory period for reply originally set in the final Office action; or (2) as set forth in (b) above, if checked. Any reply received by the Office later than three months after the mailing date of the final rejection, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

NOTICE OF APPEAL

2. ☐ The Notice of Appeal was filed on _____. A brief in compliance with 37 CFR 41.37 must be filed within two months of the date of filing the Notice of Appeal (37 CFR 41.37(a)), or any extension thereof (37 CFR 41.37(e)), to avoid dismissal of the appeal. Since a Notice of Appeal has been filed, any reply must be filed within the time period set forth in 37 CFR 41.37(a).

AMENDMENTS

3. ☐ The proposed amendment(s) filed after a final rejection, but prior to the date of filing a brief, will not be entered because
(a) ☐ They raise new issues that would require further consideration and/or search (see NOTE below);
(b) ☐ They raise the issue of new matter (see NOTE below);
(c) ☐ They are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal; and/or
(d) ☐ They present additional claims without canceling a corresponding number of finally rejected claims.

NOTE: _____. (See 37 CFR 1.116 and 41.33(a)).

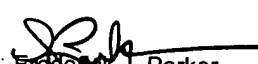
4. ☐ The amendments are not in compliance with 37 CFR 1.121. See attached Notice of Non-Compliant Amendment (PTOL-324).
5. ☐ Applicant's reply has overcome the following rejection(s): _____.
6. ☐ Newly proposed or amended claim(s) _____ would be allowable if submitted in a separate, timely filed amendment canceling the non-allowable claim(s).
7. ☒ For purposes of appeal, the proposed amendment(s): a) ☒ will not be entered, or b) ☐ will be entered and an explanation of how the new or amended claims would be rejected is provided below or appended.
The status of the claim(s) is (or will be) as follows:
Claim(s) allowed: _____.
Claim(s) objected to: _____.
Claim(s) rejected: 1-3, 22, 25, 26, 33-35, 37, 39 and 41.
Claim(s) withdrawn from consideration: _____.

AFFIDAVIT OR OTHER EVIDENCE

8. ☐ The affidavit or other evidence filed after a final action, but before or on the date of filing a Notice of Appeal will not be entered because applicant failed to provide a showing of good and sufficient reasons why the affidavit or other evidence is necessary and was not earlier presented. See 37 CFR 1.116(e).
9. ☐ The affidavit or other evidence filed after the date of filing a Notice of Appeal, but prior to the date of filing a brief, will not be entered because the affidavit or other evidence failed to overcome all rejections under appeal and/or appellant fails to provide a showing of good and sufficient reasons why it is necessary and was not earlier presented. See 37 CFR 41.33(d)(1).
10. ☐ The affidavit or other evidence is entered. An explanation of the status of the claims after entry is below or attached.

REQUEST FOR RECONSIDERATION/OTHER

11. ☒ The request for reconsideration has been considered but does NOT place the application in condition for allowance because:
See Continuation Sheet.
12. ☐ Note the attached Information Disclosure Statement(s). (PTO/SB/08 or PTO-1449) Paper No(s). _____.
13. ☐ Other: _____.


Frederick J. Parker
Primary Examiner
Art Unit: 1762

Continuation of 11. does NOT place the application in condition for allowance because: Applicants argue non-analogous art. The Examiner had carefully considered this issue in the Final Office Action, and accordingly those arguments in rejection section 1 thereof are incorporated herein. Applicant argues neither Barclay nor Gilbert are in the relevant field of endeavor. The Examiner disagrees: in both, the art is directed towards the application and bonding of particles- particularly abrasive particles- which inherently include POLAR particles alumina and silica (see Gilbert, col. 3, lines 27 & 73). The issue is therefore that one of ordinary skill would look to these references for ways to attach such particles in the process of Bentley in view of Kanecko to provide an improved method of embedding the particles which eliminates adhesives and is a simpler more cost-effective process. The Examiner, in response to Applicants arguments, also asserts that such sandpaper as formed by the prior art has the capability of forming surfaces having similar inherent wetting properties as the articles used in heat exchangers, given the fact the tertiary references are embedding polar particles in a polymeric sheet surface. Relevant guidance is provided by In re Biglio 72 USP2d 1209, where a prior art toothbrush was deemed to be in the same field of endeavor as a claimed hairbrush and analogous art because hairbrush encompasses any brush (including toothbrushes) which can be used for any hair, and further the toothbrush is structurally similar to a hairbrush. In the instant case, the similarities are even less abstract than the situation of Biglio: in all cases the references in question deal with applying and bonding particles to a polymeric surface, the particles being similar in nature in that they include inorganic polar particles having similar wetting properties. Applicants arguments relative to "non-analogous art" are therefore untenable, and the Examiner maintains his position, and the rejection of all claims.